

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**JULIE P.,**

**Plaintiff, :**

**v.**

**Case No. 2:21-cv-4170  
Judge Sarah D. Morrison  
Magistrate Judge Kimberly A.  
Jolson**

**COMMISSIONER OF  
SOCIAL SECURITY, :**

**Defendant.**

**OPINION AND ORDER**

Plaintiff brings this action under 42 U.S.C. § 405(g) for review of a final decision of the Commissioner of Social Security (“Commissioner”) denying her application for period of disability, Social Security disability insurance benefits, and Supplemental Security Income benefits. (ECF No. 4.) Plaintiff filed her Statement of Errors on December 30, 2021. (ECF No. 11.) The Commissioner filed a Memorandum in Opposition (ECF No. 12) and Plaintiff replied (ECF No. 13). On June 30, 2022, Magistrate Judge Jolson issued a Report and Recommendation, recommending that the Court overrule Plaintiff’s Statement of Errors and affirm the Commissioner’s denial of benefits. (ECF No. 14.) Plaintiff timely filed her Objection to the Magistrate Judge’s Report and Recommendation. (ECF No. 15.) The Commissioner did not respond.

If a party objects within the allotted time to a report and recommendation, the Court “shall make a *de novo* determination of those portions of the report or

specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b). Upon review, the Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). The Court’s review “is limited to determining whether the Commissioner’s decision ‘is supported by substantial evidence and was made pursuant to proper legal standards.’” *Ealy v. Comm’r of Soc. Sec.*, 594 F.3d 504, 512 (6th Cir. 2010) (quoting *Rogers v. Comm’r of Soc. Sec.*, 486 F.3d 234, 241 (6th Cir. 2007)); *see also* 42 U.S.C. § 405(g) (“The findings of the Commissioner of Social Security as to any fact, if supported by substantial evidence, shall be conclusive . . .”).

The Court has carefully reviewed the record and concludes that the decision of the Commissioner is supported by substantial evidence and was made pursuant to proper legal standards. In her Objection, Plaintiff argues that the ALJ failed to “explain how Dr. Ueberroth’s opinions were inconsistent with or unsupported by the record,” as required under 20 C.F.R. § 404.1520c. (ECF No. 15, 3.) However, in her Statement of Errors, Plaintiff argued the somewhat different point, that the ALJ erred in concluding that Dr. Ueberroth’s opinions were inconsistent with or unsupported by the record. (*See* ECF No. 11, 8.) Whether read as novel, or reiterative of the claim made in her Statement of Errors, Plaintiff’s objection is unavailing. To the extent Plaintiff’s objection was not raised in her Statement of Errors, Plaintiff waives the argument. *See Swain v. Comm’r of Soc. Sec.*, 379 F. App’x 512, 517–18 (6th Cir. 2010) (“A claim raised for the first time in objections to

a magistrate judge's report is deemed waived.") (cleaned up). And to the extent it was considered by Magistrate Judge Jolson, it was correctly addressed.

Accordingly, the Court **OVERRULES** Plaintiff's Objection (ECF No. 15), **ADOPTS** the Magistrate Judge's Report and Recommendation (ECF No. 14), and **AFFIRMS** the Commissioner's decision. The Clerk is **DIRECTED** to **TERMINATE** this case from the docket records of the United States District Court for the Southern District of Ohio, Eastern Division.

**IT IS SO ORDERED.**

/s/ Sarah D. Morrison  
**SARAH D. MORRISON**  
**UNITED STATES DISTRICT JUDGE**